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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,247	09/10/2003	Jace N. Green	025636-0109	4809

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EXAMINER

LU, JIPING

ART UNIT PAPER NUMBER

3749

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/659,247

Applicant(s)

GREEN ET AL.

Examiner

Jiping Lu

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6,8-12 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6,8-12 and 21-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. Claims 1, 3, 4, 6, 8-12, 21-24 are now in the case. Claims 2, 5, 7, 13-20 have been canceled.

#### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the claimed water distribution system, pump and evaporative cooler media in claim 1 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1, 3-4, 6, 8 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamilton (U. S. Pat. 2,805,559) in view of Kalischer (U. S. Pat. 2,112,601).

Hamilton shows an evaporative cooler comprising a housing 10, a water distribution system 29 with a pump (not shown) configured to pump water over an evaporative cooler media (col. 3, lines 7-20 & col. 1, lines 53-57), a fan (in 25), a duct system 27, 37 for directing air into an opening in a building (see col. 3, lines 30-33) which are arranged same as claimed. The evaporative cooler of Hamilton does not show the duct system with an extension portion that is positioned within the window of the building. Kalischer teaches an air conditioning equipment with a duct system 22-28 having a rectangular extension or telescopic portion 24, 27 positioned within the opening in the window same as claimed. The extension portion has a short pair of sides having a length less than one third of the length of a longer pair of sides (see Fig. 1). The duct system 22-28 does not block any portion of the window opening not covered by the extension portion 27. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute for the duct system of Hamilton with a duct system having extension portion of Kalischer in order to direct air into the window and to facilitate the use of evaporative cooler.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hamilton (U. S. Pat. 2,805,559) in view of Kalischer (U. S. Pat. 2,112,601) as applied to claim 8 above, and further in view of Campbell et al. (U. S. Pat. 4,819,448) or Cavender (U. S. Pat. 6,546,744).

The evaporative cooler of Hamilton as modified by Kalischer as above includes all that is recited in claim 9 except for the adjustable legs. Patent to Campbell et al. or Cavender teaches an evaporative cooler with adjustable legs for leveling the cooler same as claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the evaporative cooler of Hamilton with adjustable legs as taught by Campbell et al. or Cavender in order to facilitate the installation of the evaporative cooler.

6. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamilton (U. S. Pat. 2,805,559) in view of Kalischer (U. S. Pat. 2,112,601) and Campbell et al. (U. S. Pat. 4,819,448) or Cavender (U. S. Pat. 6,546,744) as applied to claim 9 above, and further in view of Grandinetti (U. S. Pat. 2,620,638).

The evaporative cooler of Hamilton as modified by Kalischer and Campbell et al. or Cavender as above includes all that is recited in claims 10-12 except for the expandable frame between the window and the extension member. Patent to Grandinetti teaches an evaporative cooler with expandable frame 111 for mounting duct member to the window same as claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the evaporative cooler of Hamilton with expandable frame as taught by Grandinetti in order to facilitate mounting the extension member to the window.

7. Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamilton (U. S. Pat. 2,805,559) in view of Kalischer (U. S. Pat. 2,112,601) and Campbell et al. (U. S. Pat. 4,819,448) or Cavender (U. S. Pat. 6,546,744).

Hamilton shows an evaporative cooler comprising a housing 10, a fan (in 25), a duct system 27, 37 for directing air into an opening in a building (see col. 3, lines 30-33) which are

Art Unit: 3749

arranged same as claimed. The evaporative cooler of Hamilton does not show adjustable legs and a duct system with an extension portion that is positioned within the window of the building. Patent to Campbell et al. or Cavender teaches an evaporative cooler with adjustable legs for leveling the cooler same as claimed. Kalischer teaches an air conditioning equipment with a duct system 22-28 having a rectangular extension or telescopic portion 24, 27 positioned within the opening in the window same as claimed. The extension portion has a short pair of sides having a length less than one third of the length of a longer pair of sides (see Fig. 1). The duct system 22-28 does not block any portion of the window opening not covered by the extension portion 27. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute for the duct system of Hamilton with a duct system having extension portion of Kalischer in order to direct air into the window and to facilitate the use of evaporative cooler and to further modify the evaporative cooler of Hamilton to include adjustable legs as taught by Campbell et al. or Cavender in order to facilitate the installation of the evaporative cooler.

8. Claims 1, 3-4, 6, 8 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. (U. S. Pat. 5,857,350) in view of Kalischer (U. S. Pat. 2,112,601).

Johnson et al. shows an evaporative cooler comprising a housing 1, a water distribution system with a pump 39 configured to pump water over an evaporative cooler media 16, a fan 19, a duct system 5, 31 for directing air into an opening in a building which are arranged same as claimed. The evaporative cooler of Johnson et al. does not show the duct system with an extension portion that is positioned within the window of the building. Kalischer teaches an air conditioning equipment with a duct system 22-28 having a rectangular extension or telescopic

Art Unit: 3749

portion 24, 27 positioned within the opening in the window same as claimed. The extension portion has a short pair of sides having a length less than one third of the length of a longer pair of sides (see Fig. 1). The duct system 22-28 does not block any portion of the window opening not covered by the extension portion 27. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute for the duct system of Johnson et al. with a duct system having extension portion of Kalischer in order to direct air into the window and to facilitate the use of evaporative cooler.

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. (U. S. Pat. 5,857,350) in view of Kalischer (U. S. Pat. 2,112,601) as applied to claim 8 above, and further in view of Campbell et al. (U. S. Pat. 4,819,448) or Cavender (U. S. Pat. 6,546,744).

The evaporative cooler of Johnson et al. as modified by Kalischer as above includes all that is recited in claim 9 except for the adjustable legs. Patent to Campbell et al. or Cavender teaches an evaporative cooler with adjustable legs for leveling the cooler same as claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the evaporative cooler of Johnson et al. with adjustable legs as taught by Campbell et al. or Cavender in order to facilitate the installation of the evaporative cooler.

10. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. (U. S. Pat. 5,857,350) in view of Kalischer (U. S. Pat. 2,112,601) and Campbell et al. (U. S. Pat. 4,819,448) or Cavender (U. S. Pat. 6,546,744) as applied to claim 9 above, and further in view of Grandinetti (U. S. Pat. 2,620,638).

The evaporative cooler of Johnson et al. as modified by Kalischer and Campbell et al. or Cavender as above includes all that is recited in claims 10-12 except for the expandable frame between the window and the extension member. Patent to Grandinetti teaches an evaporative cooler with expandable frame 111 for mounting duct member to the window same as claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the evaporative cooler of Johnson with expandable frame as taught by Grandinetti in order to facilitate mounting the extension member to the window.

11. Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. (U. S. Pat. 5,857,350) in view of Kalischer (U. S. Pat. 2,112,601) and Campbell et al. (U. S. Pat. 4,819,448) or Cavender (U. S. Pat. 6,546,744).

Patent to Johnson et al. shows an evaporative cooler comprising a housing 1, a blower 19, a duct system 5, 31 for directing air into an opening in a building which are arranged same as claimed. The evaporative cooler of Johnson et al does not show adjustable legs and a duct system with an extension portion that is positioned within the window of the building. Patent to Campbell et al. or Cavender teaches an evaporative cooler with adjustable legs for leveling the cooler same as claimed. Kalischer teaches an air conditioning equipment with a duct system 22-28 having a rectangular extension or telescopic portion 24, 27 positioned within the opening in the window same as claimed. The extension portion has a short pair of sides having a length less than one third of the length of a longer pair of sides (see Fig. 1). The duct system 22-28 does not block any portion of the window opening not covered by the extension portion 27. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute for the duct system of Johnson et al. with a duct system having extension



Art Unit: 3749

portion of Kalischer in order to direct air into the window and to facilitate the use of evaporative cooler and to further modify the evaporative cooler of Hamilton to include adjustable legs as taught by Campbell et al. or Cavender in order to facilitate the installation of the evaporative cooler.

### *Response to Arguments*

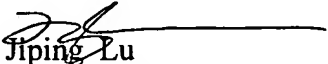
12. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

### *Conclusion*

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jiping Lu whose telephone number is 571 272 4878. The examiner can normally be reached on Monday-Friday, 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EHUD GARTENBERG can be reached on 571 272-4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jiping Lu  
Primary Examiner  
Art Unit 3749

J. L.